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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,387	10/11/2002	A. John Speranza	PES-D-02030	2780
23462	7590	09/02/2005		
CANTOR COLBURN, LLP 55 GRIFFIN ROAD SOUTH BLOOMFIELD, CT 06002			EXAMINER KALAFUT, STEPHEN J	
			ART UNIT 1745	PAPER NUMBER

DATE MAILED: 09/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/065,387	SPERANZA ET AL.	
	Examiner	Art Unit	
	Stephen J. Kalafut	1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-9 and 21-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9 and 21-30 is/are rejected.
- 7) ☒ Claim(s) 5-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claims 9, 21-25, 28 and 29 are rejected under 35 U.S.C. 102(a) as being anticipated by Yamaguchi *et al.* (2001-266,923), for reasons of record as applied to original claims 1, 3-7 and 9.

Claims 9, 21, 23-25 and 27 are rejected under 35 U.S.C. 102(a) as being anticipated by Routtenberg (WO 01/28017), for reasons of record as applied to original claims 1, 2, 5-7 and 9.

Claims 26 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaguchi *et al.*

These claims differ from Yamaguchi *et al.* by reciting an AC/DC electric conversion device, a type well known in the electrical arts. Since Yamaguchi *et al.* disclose a wind-powered primary power source (8), such devices able to generating alternating current due to their rotational motion. To convert this AC into the DC compatible with the fuel cell or electrolysis device, it would be obvious to use an AC/DC converter in the system of Yamaguchi *et al.*

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Routtenberg.

This claims differs from Routtenberg by reciting an AC/DC electric conversion device, a type well known in the electrical arts. Since Routtenberg discloses a power grid (606) as a primary power source, it would provide alternating current. To convert this AC into the DC compatible with the fuel cell or electrolysis device of Routtenberg, it would be obvious to use an AC/DC converter in his system.

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Claims 5-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The use of a capacitor as a bridging power source in a system including the main power source and back-up source, and a controller which activates the bridging source in response to deterioration of the main source and then activates the backup source, is not disclosed by the remaining prior art of record.

The Declarations filed on 10 June 2005 under 37 CFR 1.131 has been considered but are ineffective to overcome the Yamaguchi *et al.* and Routtenberg references.

The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Yamaguchi *et al.* and Routtenberg references to either a constructive reduction to practice or an actual reduction to practice. While the evidence, as alleged by applicants, shows conception of the present invention, it does not contain a record of diligence between conception and either actual or constructive reduction to practice, or a record of diligence from conception to the effective respective dates of the references.

The terminal disclaimer filed on 10 June 2002 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Patent No. 6,902,837 has been reviewed and is accepted. The terminal disclaimer has been recorded.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

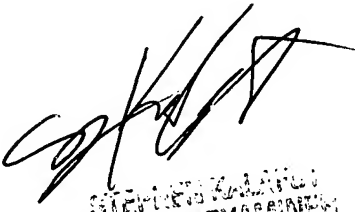
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Kalafut whose telephone number is 571-272-1286. The examiner can normally be reached on Mon-Fri 8:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sjk


STEPHEN KALISH
PRIMARY EXAMINER
GROUP 1700